



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Hewitt, Olson Capital Recovery Group, Inc.--Reconsideration

File: B-261856.3

Date: October 31, 1996

Richard D. Duvall, Esq., and Bruce E. Kasold, Esq., Holland & Knight, for the protester.

Michael J. Farley, Esq., Department of Housing and Urban Development, for the agency.

Wm. David Hasfurthur, Esq., John Van Schaik, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Decision denying protest that awardee's bid for broker services was unbalanced is affirmed since although protester challenges conclusion of original decision that awardee's bid did not include an understated broker fee, regardless of whether the broker fee was understated bid still was not unbalanced because it did not include an overstated price for other work.

DECISION

Hewitt, Olson Capital Recovery Group, Inc. requests that we reconsider our decision Hewitt, Olson Capital Recovery Group, Inc., B-261856, Nov. 7, 1995, 95-2 CPD ¶ 210, in which we denied its protest that the bid of Palm Beach Realty Services, Inc. for exclusive listing broker services and related services should not have been accepted for award. Hewitt, Olson contends that our decision contains errors of fact and law which require its reversal.

We affirm our decision.

In our prior decision, we rejected Hewitt, Olson's contention that Palm Beach's bid should have been rejected because Palm Beach submitted multiple bids. We also found to be untimely the protester's challenge to the evaluation scheme in the solicitation. Finally, we concluded that Palm Beach's bid was not unbalanced since it did not contain understated or overstated prices. In this respect, although Hewitt, Olson argued that Palm Beach's broker fee was understated, we concluded otherwise because the fee was approximately the same as Hewitt, Olson's fee, which presumably was reasonable and not understated.

Hewitt, Olson first contends that we mistakenly concluded that Palm Beach's broker fee of 2.9 percent was not understated since Hewitt, Olson's fee was only 3.289 percent--only slightly higher--and Hewitt, Olson did not state that its own fee was understated. Hewitt, Olson now explains that its own broker fee in fact was understated which, according to Hewitt, Olson supports its contention that Palm Beach's broker fee was understated. The firm also argues that the awardee's lawn maintenance price was overstated, resulting in an unbalanced bid.

Regardless of whether Palm Beach's bid included an understated broker fee, we are unconvinced, as we were when we issued the original decision, that Palm Beach's lawn maintenance price was overstated.

The agency determined that Palm Beach's price of \$110 per month, per property, for lawn service was not unreasonable. Although the agency initially estimated the cost of the lawn service work to be \$53, after bid opening the agency reviewed its estimate and concluded that the cost of this work would be higher. The agency based its revised estimate on a wage of \$6.35 per hour (using the applicable Department of Labor wage determination) and an estimate of 8 hours per property, per month, to derive a base labor cost of \$50.80 per month. The agency then added overhead of 25 percent and profit of 10 percent, which resulted in a monthly cost of approximately \$70 per property. According to the agency, its estimate includes the cost of an initial cleanup of each property, which agency officials believe will take an average of 5 hours, or \$75.¹

The agency reports that its estimate includes no costs for equipment or landfill charges and the overhead and profit estimates are conservative. In addition, the agency notes that these calculations assume the contractor would be able to locate workers willing to work for the specified minimum wage and argues that the estimate of 8 hours per month also is conservative, considering the sub-tropical weather in south Florida and the resulting rapid plant growth.

¹A submission from Palm Beach, the awardee, explains the need for the initial cleanup. As Palm Beach states:

"Unfortunately, repossessed homes become the community dump in many neighborhoods. Almost without exception, our lawn maintenance contractors must pick up bottles, newspapers, garbage and other debris before they can mow, edge and trim."

In addition to its calculations, the agency reports that it contacted lawn maintenance firms and that three gave estimates of \$90, \$100, and \$100 per month for similar services. As a result of the agency's calculations and its survey, the agency estimated the monthly cost of lawn maintenance, including an initial cleanup, would be approximately \$117 per month, per property.

Hewitt, Olson disputes the agency's analysis, arguing for instance that approximately 2 hours, not 8 hours, is all it would take to maintain the lawns in question. According to Hewitt, Olson, the contracting officer's estimate of 8 hours is based simply on his personal experience. Hewitt, Olson maintains that a total of only \$18.58, including 25 percent overhead and 10 percent profit, is a reasonable estimate of the monthly cost of lawn care for each property covered by this contract. Hewitt, Olson therefore contends that Palm Beach's bid of \$110 for lawn maintenance was grossly overstated.

We have no basis to reject the agency's view that Palm Beach's bid of \$110 was not overstated. The agency's revised estimate of \$117 is not, as Hewitt, Olson contends, based simply on the personal experience of the contracting officer. Rather, that estimate included consideration of estimates of \$90, \$100, and \$100 per month for similar services, not including the cost of the initial cleanup of the properties, from lawn maintenance firms contacted by the agency. In addition, the bids submitted under the solicitation included prices of \$80, \$65, \$89.50, \$85, \$87, and \$75 for lawn maintenance, all significantly higher than Hewitt, Olson's \$18.58 estimate. While Palm Beach's price of \$110 was higher than the other prices submitted for lawn maintenance, we do not believe Hewitt, Olson has shown that price to be overstated and, under the circumstances, we conclude the awardee's bid was not mathematically unbalanced. Accordingly, as we concluded in the original decision, the award to Palm Beach was unobjectionable.

Hewitt, Olson also argues that in deciding its protest we failed to recognize that the government would save \$128,000 through award to Hewitt, Olson, as opposed to Palm Beach. Hewitt, Olson had erroneously calculated the yearly savings to be only \$3,000 in September 12, 1995, protest comments, but corrected the record the next day to argue that the savings in fact would be much higher; Hewitt, Olson points out that our decision mentions the initial figure instead of the revised one. The alleged estimated savings, however, flowed from the protester's contention that Palm Beach's bid included an understated broker fee as well as grossly overstated prices for lawn care, and thus was materially unbalanced. Since we have rejected Hewitt, Olson's argument with respect to the lawn maintenance prices, and we thus do not agree that Palm Beach's bid—low under the solicitation's evaluation scheme—

was even mathematically unbalanced, Hewitt, Olson's point provides no basis to reconsider our decision.² See Hampton Rds. Leasing, Inc., B-250645.2, Feb. 1, 1993, 93-1 CPD ¶ 486.

Finally, Hewitt, Olson argues, as it did in its protest, that Palm Beach obtained an improper advantage over other bidders by submitting multiple bids. The protester is merely reiterating an allegation from the protest. Since we addressed this contention in our decision, it does not present a valid basis for reconsideration. Docusort, Inc.-Recon., B-254852.3, July 18, 1995, 95-2 CPD ¶ 25.

The decision is affirmed.

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²Although we concluded that the protest untimely challenged the evaluation scheme upon which the award was based, Hewitt, Olson now contends that the impropriety of the scheme was not apparent until the awardee's bidding method disclosed the scheme could result in an award to other than the lowest cost bidder. Hewitt, Olson also argues that we should consider this issue even if it is untimely. Both of Hewitt, Olson's arguments for considering the propriety of the solicitation evaluation scheme are based on its view that the evaluation scheme improperly allowed unbalanced bids and award to other than the low cost offeror--as evidenced by Palm Beach's bid. The short answer is that since, as we have explained above, we do not agree that Palm Beach's bid was unbalanced, we see no reason to review the solicitation further.